

REMARKS/ARGUMENTS

Claims 1-5 and 7-23 are pending. By this Amendment, claim 1 is amended, and new claims 12-23 are presented. Support for the amendments to claim 1 and new claims 12-23 can be found, for example, in the present specification at page 25, line 2 to page 33, line 23, and in previously presented claims 1-11. No new matter is added. In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

Rejection Under 35 U.S.C. §102/§103

The Office Action rejects claims 1-5 and 7-11 under 35 U.S.C. §102(b), or in the alternative under 35 U.S.C. §103(a), over U.S. Patent No. 5,393,838 to Moczygembe et al. ("Moczygembe 838"). Applicants respectfully traverse the rejection.

Claim 1 recites "[a] linear block copolymer composition ... wherein: the linear block copolymer composition is a mixture comprising linear block copolymers having at least three types of polymer blocks with different molecular weights represented by the following formula: S-B-S where S is a polymer block comprising a vinyl aromatic hydrocarbon as monomer units, and B is a polymer block consisting of conjugated diene monomer units ... the linear block copolymer composition is obtained by: preparing a polymer system by carrying out anionic polymerization of a first charge of a vinyl aromatic and an initiator; adding a second charge of a vinyl aromatic hydrocarbon and an initiator to the polymerization system; adding a third charge of a vinyl aromatic hydrocarbon and an initiator to the polymerization system, the first, second, and third charges resulting in formation three types of vinyl aromatic hydrocarbon blocks having different peak top molecular weights; adding a fourth charge of a conjugated diene; adding a fifth charge of a vinyl aromatic hydrocarbon;

and inactivating all active terminals of the obtained polymers" (emphasis added).

Moczygembe 838 does not disclose or suggest such a composition.

As indicated above, claim 1 requires polymer blocks with different molecular weights represented by the formula S-B-S, where S is a block comprising a vinyl aromatic hydrocarbon monomer units and B is a polymer block consisting of conjugated diene monomer units. As indicated in the July 2, 2010 Decision On Appeal:

We agree, however, with Appellants that the formula of claim 1 precludes the coupling agent that is present in the inventive examples of Moczygembe (App. Br. 4-6; Reply Br. 1-2). The Examiner's position in this respect is not supported by the record, since the claim recites "B is a polymer block *consisting of* conjugated diene monomer units" (emphasis provided).

See July 2, 2010 Decision On Appeal, page 5, note 5. Thus, it is undisputed that the Examples of Moczygembe 838 would not have led a skilled artisan to the composition of claim 1.

The inquiry thus turns to whether the Comparative Examples of Moczygembe 838 would have led a skilled artisan to the composition of claim 1. By this Amendment, claim 1 is amended to specify the manner in which the polymer composition is prepared. While the patentability of a product does not depend on its method of production, the structure implied by process steps should be considered when assessing patentability. *See* MPEP §2114. In this case, it is plain that, because of the composition and sequence of charges recited in claim 1, the resulting polymer composition would be different from the polymer compositions obtained using the composition and sequence of charges in the Comparative Examples of Moczygembe 838. *See* Moczygembe 838, TABLES VII to XII. Moreover, it would be immediately apparent to a skilled artisan, from comparison of the steps recited in claim 1 and the steps by which the compositions of the Comparative Examples of Moczygembe 838 are obtained, that the respective compositions are different – confirmation with experimental results would be wholly unnecessary to such skilled artisan.

Moczygembe 838 fails to disclose or suggest a composition as recited in claim 1.

As explained, claim 1 is not anticipated by and would not have been rendered obvious by Moczygembe 838. Claims 2-5 and 7-10 depend from claim 1 and, thus, also are not anticipated by and would not have been rendered obvious by Moczygembe 838. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

New Claims

By this Amendment, new claims 12-23 are presented.

New claim 12 depends from claim 1 and, thus, is believed to be patentable over Moczygembe 838 for at least the reasons discussed above with respect to claim 1.

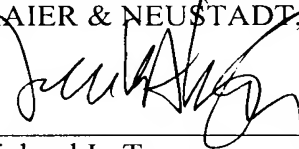
New claim 13, like claim 1, requires polymer blocks with different molecular weights represented by the S-B-S, where S is a block comprising a vinyl aromatic hydrocarbon monomer units and B is a polymer block consisting of conjugated diene monomer units. Moreover, new claim 13, like claim 1, requires that the composition be obtained by a particular, enumerated sequence of steps that differs from the sequences of steps by which the compositions of Moczygembe 838 are obtained. Accordingly, Moczygembe 838 fails to disclose or suggest a composition as recited in claim 13 – claim 13 is believed to be patentable over Moczygembe 838. New claims 14-23 depend from new claim 13 and, thus, are also believed to be patentable over Moczygembe 838.

Conclusion

For the foregoing reasons, Applicants submit that claims 1-5 and 7-23 are in condition for allowance. Prompt reconsideration and allowance are respectfully requested.

Respectfully submitted,

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